



NEW MEXICO ENVIRONMENT DEPARTMENT
BEFORE THE SECRETARY

IN THE MATTER OF THE PROPOSED
NEW RULE, 20.2.89 NMAC
QUALIFYING GENERATING FACILITY
CERTIFICATION

No. AQCA 08-34(R)

PETITION FOR NEW RULE

The Air Quality Bureau of the Environmental Protection Division of the New Mexico Environment Department (“Department”), pursuant to 20.1.9 NMAC – *Rulemaking Procedures, Environment Department*, hereby petitions the Secretary to adopt 20.2.89 NMAC – *Qualifying Generating Facility Certification*. The proposed rule and statement of reasons are attached.

The purpose of the proposed new rule is to implement Senate Bill 994 from the 2007 Legislative Session. Senate Bill 994 requires that the Environment Department issue rules with procedures for determining whether a solar generating facility, recycled energy facility, or coal electric generating facility that meets the definition in statute is a qualified generating facility as defined in the statute. The proposed regulation allows NMED to evaluate solar thermal and recycled energy projects to determine whether they meet the requirements of a qualified energy facility in order to qualify for tax credits. NMED would then issue a certification for projects that qualify, and would deny certifications to projects that do not meet the requirements.

The proposed regulation includes applicability requirements, application requirements, procedures for issuing certifications, provisions for cancelling previously

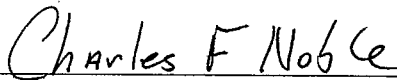
issued certifications, and a fee schedule. Small businesses who meet the definition in Section 7 of the proposed regulation are entitled to a reduced fee.

Revisions to the regulation to address the coal electric generating facility requirements will be made at a later date.

The Air Quality Bureau requests that the Secretary schedule the hearing after November 3, 2008 to allow for 30 days notice. The Bureau anticipates that the hearing will take approximately one-half day.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL

A handwritten signature in cursive script that reads "Charles F Noble". The signature is written in dark ink and is positioned above a horizontal line.

Charles F. Noble
Assistant General Counsel
New Mexico Environment Department
1190 St. Francis Drive, Suite N-4050
Santa Fe, New Mexico 87505